IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.8864 OF 2005

M/s.Patil Daware Girase Pawar and Associates).. Petitioner

Versus

Nashik Municipal Corporation and others).. Respondents

Mr.C.J. Sawant, Senior Counsel, with Mr.V.Y. Jadhav & Ashwinkumar Kapadnis for the Petitioner.

Mr.R.V. More for Respondent No.1.

Mr.P.B. Shah for Respondent No.2.

Mr.P.P. Kakade, Assistant Government Pleader, for Respondent No.3.

CORAM: V.G. PALSHIKAR, Ag. C.J. AND SMT. NISHITA MHATRE, J.

DATED: 30TH JANUARY 2006

P.C.:

. By this Petition, the Petitioner has challenged the action of Respondent No.1 Corporation allotting tender work to Respondent No.2 on certain grounds.

2. The first challenge is that the tender is given to two entities, one of which has no experience of any kind as Chartered Accountant, though the other agency is a firm of Chartered Accountants itself. The contention is based on interpretation of Clause 9 of the tender document, which reads thus :-

9) **PRE-QUALIFICATION CONDITIONS** :

(a) The Agency should be qualified and Registered Chartered Accountant may be an individual, proprietary or partnership firms, companies formed under companies law, consortium or joint venture of companies having appropriate experience in providing Chartered Accountants Services.

b) Agency would need to fulfill the minimum eligibility criteria as indicated in the following table :

Position	Nature of Experience	Years of experience
Team Leader	a) Should be registered Chartered Acountant. b) Knowledge of Marathi is essential.	10 Years
Accounting Expert	Should have experience of atleast three projects in assisting Government/Co-operative bodies/public sector bodies in accounting reforms related assign--ments. Knowledge of Marathi is essential.	5 Years
Computer & Software Expert	Should have executed atleast three software development projects costing not less than Rs.50 lakh in past three years.	5 Years
Property Valuation expert	a) Should be Government approved valuer registered with Institution of valuers. b) Should have experience in valuating various types of Civil struc--tures, land, plant and	5 Years

machinery etc.

. In case of a Joint Venture, the total experience of all the parties to the joint venture shall be considered for this purpose.

c) The Agency should have atleast 3 full time qualified and registered chartered accountants on its role. The Valuers and Computer & Software expert can on hire basis or can be engaged by MOU as a joint venture.

d) Each Agency will submit only one bid either by himself or as a partner in joint venture/consortium. Any Agency participating in more than one bid will be disqualified.

(The attached true copy of the documents complying the above criteria should be submitted in Envelope No.1.)

3. The contention is that the consortium or joint venture of companies having appropriate experience in providing Chartered Accountants services applies to each component, agency or entity of the consortium. There is nothing in the language of Clause 9 to warrant such interpretation. There is, therefore, no reason to accept this contention.

4. It is then contended that the Company-Respondent No.2 does not have the requisite experience of having executed work worth Rs.50 lakhs per year. Reliance is sought to be placed on a communication from the Income Tax Department saying that the appeal is pending and the information is likely to come. Whether

the Respondent No.2 has the experience of executing certain works or not cannot depend on certificate to be issued by the Income Tax Department.

5. Affidavit in reply has already been filed by the Nashik Municipal Corporation pointing out that there is no breach of any of the conditions of the document calling tenders. In view of the fact that the Corporation itself has no grievance, we see no reason to entertain this Petition on the grounds mentioned above.

6. Petition accordingly disposed of.